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CORPORATE INCOME TAX AND THE PUBLIC'S NEED TO KNOW

In 2003, 40% of the top 500 national and multinational companies doing business in Montana paid less income tax than 50% of Montana wage earners—\$500. When I discovered that, I wanted to know why, and so I launched a quest to make the state income tax records of these mega-corporations public knowledge.

Ever since the Corporate Income Tax was introduced in 1909 by President William Howard Taft there has been controversy about whether or not this information should be a matter of public record. Taft, a Republican, didn't think there should be any controversy at all; he specified in his address to Congress that public knowledge of corporate earnings and taxes would serve as a check on the fast and loose methods corporations were using at the turn of the 20th Century.

Taft followed his good friend Teddy Roosevelt as President, and it was Roosevelt who led the charge against the corporate "Trusts" which colluded to control their respective industries of coal, railroads, steel, and meat-packing.

So when the Corporate Income Tax was established the earnings and taxes of the big corporations was public knowledge. It didn't last long. Corporations were then, as now, far more powerful than mere Presidents, and the Congress soon removed the publicity provisions.

From time to time in the wake of the discovery of widespread corporate fraud activities most recently with Enron and other companies, there have been attempts at reviving the publicity provisions. But corporations are still the most powerful political force in the world, and the attempts have fizzled at the national level. There are a few states that have some measure of corporate disclosure, and I believe Montana should join them.

There are several valid reasons for shining light into the world of corporate finance, no the least of which is because they do have inordinate political power. If we require financial disclosure of the President, Senators, and Members of Congress, why not require it of the most powerful political force?

Corporations have gained this power through twists of fate and legal decisions, and for many purposes have the same rights as individual Americans. For some purposes they have more rights than mere humans.

Through an offhand notation in an 1885 Supreme Court decision corporations gained the status of "personhood." That status gives them the right to freedom of speech, among others, and spending money on political advertising is a way of exercising that freedom of speech. That is a tremendous amount of power given the vast amounts capable of being spent.

But because of the very nature of corporations, the people who make the decisions are—except in extraordinary circumstances—free from any legal liability incurred as a result of their decisions. That's a right individual Americans do not have.

While individuals exist through the grace of their Creator, Corporations exist by the grace of individuals. They are licensed by a state to do business in the state, and that license can be taken away by the state, although it rarely is unless the corporation doesn't pay its annual fee. If corporations are the creation of the public then they are accountable to the public.

In Montana, corporations, although "persons," do NOT have the same rights as individuals. The Montana Constitution specifically gives the Right of Privacy only to individuals, and a recent Supreme Court decision (Great Falls Tribune v Montana Public Service Commission) states specifically that corporations do not have an expectation to the right of privacy.

This year I have introduced SB 242 to require that state tax information of certain national and multinational corporations be made public. Specifically, the corporations would have to be required to file with the Securities and Exchange Commission, traded on a major national stock exchange, and have over \$2 billion in capitalization. No company headquartered in Montana meets those criteria and would not be subject to disclosure.

The major argument against this seems to be, "it will send an anti-business message." But in Wisconsin, where state taxes paid by Harley Davidson, Snap-On Tools, and a host of other corporations headquartered in Wisconsin are public record, businesses have not left the state.

Another argument is that the public is incapable of understanding the intricacies involved and will misinterpret the numbers. This argument is made by the same folks who think that the public is fully capable of making sophisticated decisions about buying corporate stock—without knowing the amount of taxes paid or not paid. When Enron was claiming record corporate profits they were also taking record corporate losses against their taxes. That information would have told the stockholders something, and prevented millions from losing their life savings invested in Enron and other, similarly "ethically challenged" companies.

I think it's in our best interests to allow the Montana public access to this corporate tax information, as taxpayers, investors, and just plain citizens.

How about you?

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